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The Public Service Commission State of South Carolina

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May 17, 2006

Certified Mail
Return Receipt Requested

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Re: Application of LMDS Holdings, Incorporated
Commission Docket No. 2006-70-C

Dear Jack, Shannon and Peg:

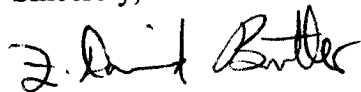
Enclosed please find a proposed order in the above-captioned docket, which is being delivered to you pursuant to the requirements of 26 S.C. Code Ann. Regs. 103-865 (C). As parties of record in this LMDS case, you have ten (10) days from your receipt of this proposed order to file exceptions, present briefs, and/or file written requests for oral argument to the Commission, if you should desire to do so. If

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none of these are received by me within 10 days of your receipt of the proposed order, I will request that the Commission issue its order in this case based upon the record of the formal proceeding and the proposed order.

Thank you in advance for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "F. David Butler". The signature is fluid and cursive, with the first name "F." and last name "Butler" clearly distinguishable.

F. David Butler
Hearing Examiner

FDB/dd
cc: Joseph Melchers, Chief Legal Advisor

IN RE: Application of LMDS Holdings, Incorporated) ORDER
for a Certificate of Public Convenience and) GRANTING
Necessity to Provide Competitive Local) CERTIFICATE,
Exchange and Interexchange) APPROVING MODIFIED
Telecommunications in the State of South) ALTERNATIVE
Carolina and for Alternative Regulation, and) REGULATION AND
for Flexible Regulation.) FLEXIBLE
) REGULATION AND
) APPROVING NAME
) CHANGE TO NEXTLINK
) WIRELESS, INC.-
) PROPOSED ORDER OF
) THE HEARING
) EXAMINER

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of LMDS Holdings, Incorporated (“LMDS” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold local exchange and resold interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2005) and the rules and regulations of the Commission. By its Application, LMDS also requests modified alternative regulation of its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C as modified

by Order No. 2001-997, flexible regulation of its local exchange service offerings pursuant to Order No. 98-165 in Docket No. 1997-467-C, and waiver of certain Commission regulations.

The Commission's Docketing Department instructed LMDS to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of LMDS and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. LMDS complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed by the South Carolina Telephone Coalition (SCTC). Subsequent to the intervention, LMDS and SCTC reached a Stipulation, attached hereto as Order Exhibit 1.

On Friday, May 5, 2006, the parties filed a stipulated settlement, which is attached hereto as Order Exhibit 2. A hearing was convened on May 8, 2006, at 11:30 a.m. in the Commission's Meeting Room, Columbia, South Carolina, before David Butler, Hearing Examiner. LMDS was represented by John J. Pringle, Jr., Esquire. The Office of Regulatory Staff (ORS) was represented by Shannon Bowyer Hudson, Esquire.

David LaFrance, Senior Manager of Regulatory and External Affairs for the Company, appeared by video conferencing and testified in support of the Application. The record reveals that LMDS, a subsidiary of XO Holdings, Inc., is incorporated in Delaware and has registered to transact business in South Carolina as a foreign corporation. After filing its Application, the Company changed its name in Delaware to

NextLink Wireless, Inc., and, at the time of the hearing, was in the process of changing its name in the states in which it is certificated and is seeking certification. (The Company has now furnished the requisite Certificate from the South Carolina Secretary of State, which shows that the Company name has now officially been changed in the records of the State of South Carolina.) Mr. LaFrance requests that any authority granted by this Commission be issued in the name of NextLink Wireless, Inc. Further, according to Mr. LaFrance, the Company seeks authority to operate as a reseller of dedicated point-to-point transport and data services to enterprise customers and other common carriers throughout the state under its new name. Mr. LaFrance explained the Company's request for authority, and the record further reveals the Company's services, operations, and marketing procedures. The Company's primary market is business customers.

Mr. LaFrance also discussed LMDS' technical, financial, and managerial resources to provide the services for which it seeks authority. Mr. LaFrance offered that LMDS possesses sufficient financial resources to support its operations in South Carolina. With regard to management and technical capabilities, the Company has not been denied a license in any of the states in which it has applied, nor has it had a license revoked in any jurisdiction. The Company's Application and Mr. LaFrance's testimony are both evidence that LMDS' management team has extensive experience in telecommunications, information technology, regulatory matters, and accounting and finance. Mr. LaFrance also testified that LMDS will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Mr. LaFrance offered that approval of LMDS' Application would serve the public interest by increasing the level of competition in South Carolina. Mr. LaFrance, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Regs. 103-610 and to be allowed to keep the Company's books at its headquarters in Virginia. Further, the Company requests an exemption from record keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts (USOA). LMDS maintains its books in accordance with Generally Accepted Accounting Principles (GAAP). In addition, the Company requests that it not be required to publish local exchange directories, and therefore requests waiver of 26 S.C. Code Ann. Regs. 103-631. Further, LMDS asks that it not be required to create and file operating area maps as required by 26 S.C. Code Ann. Regs. 103-612.2.3, and therefore requests waiver of this Regulation.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. LMDS is incorporated under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State. The Company has changed its name to NextLink Wireless, Inc. in Delaware, and at the time of the hearing before the Hearing Examiner, was changing its name in the various states in which it has authority and is seeking authority. The

Company is requesting that any authority that this Commission grants the Company be granted in the name of NextLink Wireless, Inc.

2. LMDS has no reported record of violations of regulatory laws or regulations in the jurisdictions in which it is currently operating.

3. LMDS desires to operate as a provider of resold local and interexchange exchange telecommunications services in South Carolina.

4. We find that LMDS possesses the managerial experience and capability to operate as a provider, through resale, of interexchange and local exchange services in South Carolina.

5. We find, based on the financial statements submitted by the Company, that LMDS possesses sufficient financial resources to provide the services as described in its Application.

6. We find that the issuance of a Certificate of Public Convenience and Necessity to LMDS (in the name of NextLink Wireless, Inc.) to operate as a reseller of interexchange and local exchange telecommunications services in South Carolina would be in the best interest of the citizens of South Carolina by increasing the level of competition in South Carolina, by providing an alternative source for telecommunications services, and by creating incentives for lower prices, more innovative services, and more responsive customer service.

7. LMDS has no current plans to maintain offices in South Carolina and requests a waiver of 26 S.C. Code Ann. Regs. 103-610. The Commission finds LMDS' requested waiver reasonable and understands the difficulty presented to LMDS should

the waiver not be granted. Further, we find that a waiver of 26 S.C. Code Ann. Regs. 103-610 to be in the public interest. We also believe that exemption from the policies that would require the Company to keep its records under the USOA is reasonable. Additionally we find that waivers of 26 S.C. Code Ann. Regs. 103-631 and 103-612.2.3 are reasonable and in the public interest.

8. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B) (1) (Supp. 2005).

9. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B) (3) (Supp. 2005).

10. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B) (4) (Supp. 2005).

11. The Commission finds that services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B) (2) (Supp. 2005).

12. The Commission finds that the provision of local exchange service by the Company "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B) (5) (Supp. 2005).

13. Following execution of a Stipulation with intervenor South Carolina Telephone Coalition (SCTC), the SCTC withdrew its opposition to the Application.

CONCLUSIONS OF LAW

1. The Commission concludes that LMDS possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.
2. The Commission concludes that LMDS will participate in the support of universally available telephone service at affordable rates to the extent that the Company may be required to do so by the Commission.
3. The Commission concludes that LMDS will provide services which will meet the service standards of the Commission.
4. The Commission concludes that approval of LMDS' Application to provide intrastate telecommunications services within South Carolina will serve the public interest by enhancing competition in the State of South Carolina by offering additional service offerings to South Carolina's consumers and by providing for efficient use of existing telecommunications resources.
5. The Commission concludes that the provision of telecommunications service by LMDS will not adversely impact the public interest.
6. The Commission concludes that the issuance of the authority to provide intrastate local exchange and interexchange telecommunications services as requested by LMDS and as set forth in its Application, is in the best interests of the citizens of the State of South Carolina.

7. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to LMDS (in the name of NextLink Wireless, Inc.) to provide resold intrastate interexchange and local exchange telecommunications services.

8. The Commission adopts a rate design for LMDS for its residential interexchange services which includes maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

9. LMDS shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. LMDS shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp.2005).

10. The Commission concludes that LMDS' intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission.

11. The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

12. We conclude that LMDS' request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted as strict compliance with the regulation would cause undue hardship on LMDS. We also grant exemption from the policies requiring the use of USOA. In addition, we grant waivers of 26 S.C. Code Ann. Regs. 103-631 and 103-612.2.3, which require publication of a local telephone directory and area operating maps, respectively.

13. The Stipulations between the parties should be approved.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to LMDS (in the name of NextLink Wireless, Inc.) to provide intrastate interLATA service

and to originate and terminate toll traffic within the same LATA, as set forth herein, through resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission, as well as to provide resold local exchange telecommunications services within the State of South Carolina. (The Company does not intend to offer prepaid debit card services in South Carolina at this time. Mr. LaFrance stated in his testimony that the Company is aware of this Commission's \$5,000 bond or certificate of deposit requirement associated with prepaid debit card services, and will file such an instrument with the Commission, should the Company decide to offer these services.)

2. The Company's rate designs for its products shall comport to those designs described in Conclusions of Law above.

3. If it has not already done so by the date of issuance of this Order, LMDS shall file its revised tariff and an accompanying price list for any applicable rates within thirty (30) days of receipt of this Order, in the name of Next Link Wireless, Inc. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations, as well as the provisions of the LMDS-ORS Stipulation.

4. LMDS is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. LMDS shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If LMDS changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, LMDS shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, LMDS shall comply with the inputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. LMDS shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, LMDS shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at www.psc.sc.gov/reference/forms.asp. The title of this form is "Telecommunications

Company Annual Report.” This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1st**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the ORS website at www.regulatorystaff.sc.gov, and the appropriate form is entitled “Gross Receipts Form.”

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Pac-West shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at www.psc.sc.gov/reference/forms.asp; this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

10. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

11. At the hearing, LMDS requested a waiver of 26 Code Ann. Regs. 103-610 (Supp. 2005), which requires that records required by the Commission's Rules and Regulations be maintained in South Carolina. The record reveals that LMDS's principal headquarters will be located outside of South Carolina. LMDS requests permission to maintain its books and records at its headquarters in its home office. The Commission finds LMDS' requested waiver reasonable and understands the difficulty presented to IPC should the waiver not be granted. The Commission therefore grants the requested waiver that LMDS be allowed to maintain its books and records at its principal headquarters. However, LMDS shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and LMDS shall promptly notify the Commission and ORS if the location of its books and records changes.

12. LMDS also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (USOA). The USOA was developed by the FCC as a means of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, LMDS maintains its book of accounts in accordance with Generally Accepted Accounting Principles (GAAP). GAAP is used extensively by interexchange carriers and other providers. Accordingly, LMDS requests an exemption from the USOA requirements. We grant the Company's request for the reasons stated above. We also grant the waivers of the additional regulations as found above.

13. Each telecommunications company certified in South Carolina is required to file annually the Intrastate Universal Service Fund (USF) worksheet. This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **August 15th** with the Commission and ORS.

14. Should the Company become interconnected to the public switched telephone network, LMDS is required to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911" system or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs LMDS to contact the appropriate authorities regarding 911 service in the counties and cities where the company will be operating, should the Company become interconnected to the public switched telephone network. Contact with the appropriate 911 service authorities is to be made before beginning local telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office of the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing local telephone services in South Carolina, LMDS shall contact the 911 coordinator in each county (and city where the city has its own 911 system) and shall provide information regarding the Company's operations as required by the 911 system.

15. The Stipulations between the various parties are hereby approved.
16. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Randy Mitchell, Chairman

ATTEST:

G. O'Neal Hamilton, Vice-Chairman

(SEAL)